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#1

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 10
1200 Sixth Avenue
Seattle, Washington 98101

IN THE MATTER OF:

Environmental Protection Agency,
Complainant,

v.

Pacific Wood Treating Company,
Respondent.

RCRA Docket No. 1085-09-26-3008F

CONSENT AGREEMENT AND FINAL ORDER

A Complaint and Compliance Order was issued against the Respondent, Pacific Wood Treating Corporation ("PWT"), in this action, pursuant to Section 3008 of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6928, et seq. The Complaint and Compliance Order was issued on September 20, 1985, and alleged violations of RCRA; and the delegated RCRA program in the State of Washington, whose regulations are found at Chapter 173-303 of the Washington Administrative Code (WAC), as set forth



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1 below.

2 In full and complete settlement of the matters alleged
3 in the September 30, 1985 Complaint and Compliance Order, and
4 pursuant to 40 CFR § 22.18, the following Consent Agreement and
5 Final Order is agreed to by all parties, and entered against
6 Respondent Pacific Wood Treating Corporation.
7

8 I. FINDINGS OF FACT

9 1. Respondent owns and operates the Ridgefield Brick
10 and Tile land disposal site, located at 3510 N.W. 289th Street,
11 Ridgefield, Washington. The site is a hazardous waste landfill
12 consisting of approximately three quarters of an acre, on the
13 outskirts of Ridgefield, Washington. In this document, the site
14 will be referred to as the PWT/RBT facility or the landfill.
15

16 2. Respondent submitted a Part A hazardous waste permit
17 application for the PWT/RBT facility to EPA on May 25, 1983. The
18 application stated that hazardous waste disposed in the landfill
19 was ash from the PWT wood-waste boiler plant contaminated with
20 the regulated hazardous wastes D004 (arsenic) and K001 (bottom
21 sediment sludge from the treatment of wastewaters from wood-
22 preserving processes that use creosote and/or pentachlorophenol).
23 The hazardous waste was first received at the landfill in
24 1979, and was last received on January 25, 1983.
25

26 3. The PWT/RBT facility is subject to the provisions
27 of RCRA, including the Hazardous and Solid Waste Amendments of 1984,
28 and the delegated State of Washington program, and to applicable

1 regulations found at WAC 173-303, including the interim
2 status standards found at WAC 173-303-400. Those standards
3 incorporate by reference the interim status standards of 40 CFR
4 part 265, Subpart F through R.

5
6 4. Closure of the PWT/RBT facility was done by the
7 Respondent between September 15, 1983 and January 16, 1984, under
8 supervision of the Washington State Department of Ecology
9 ("Ecology"), and pursuant to a closure plan submitted to Ecology
10 by the Respondent. That closure did not ~~adequately address the~~ ^{provide for a}
11 ~~ground water monitoring system which met the~~ requirements of 40 CFR part 265, Subpart F
12 for landfills. The plan also did not ~~adequately address~~ ^{include provisions} regulatory
13 requirements for post-closure care or post-closure financial
14 assurance.

15 (5.) All landfills which received hazardous waste after
16 July 26, 1982 are subject to the requirements of 40 CFR Part 270,
17 for the issuance of a permit to ensure compliance with the
18 applicable requirements of 40 CFR Part 264, pursuant to amendments
19 to RCRA made in the Hazardous and Solid Waste Amendments of 1984.
20 The State of Washington has not been delegated the authority
21 to implement the requirements of these amendments. Section
22 3005(i) of RCRA, 42 U.S.C. § 6925(i), requires all landfills
23 which received hazardous waste after July 26, 1982 to comply with
24 the ground water monitoring requirements and financial assurance
25 requirements of 40 CFR Parts 264 and 270. [To fulfill these
26 requirements, EPA requested the submittal of a Part B permit
27 application by the Respondent for the landfill, prior to issuance
28

1 of a permit to ensure these requirements. The part B permit
2 application was due by October 30, 1985. Respondent submitted a
3 letter to EPA in September of 1985 which indicated that the
4 Respondent would not comply with the request for a part B permit
5 application or the cited requirements. To date, the Respondent has
6 not submitted a Part B permit application for the landfill.
7

8 ~~5.6.~~ Leachate from the landfill, a hazardous and dangerous
9 waste by definition, is discharged from the toe drain at the
10 landfill. This waste is not managed in accordance with the
11 generator requirements of 40 CFR Part 262.12(c), nor does Respondent
12 have a permit to dispose of hazardous waste on site as required
13 by 40 CFR § 270.1(c).
14

15 CONCLUSIONS OF LAW

16 ~~6.7.~~ Based upon the foregoing, Respondent is found to be
17 in violation of the following federal regulations, which are
18 incorporated by reference in WAC 173-303-400:
19

20 a. 40 CFR § 262.10(b), regarding recordkeeping, and/or
21 the land disposal requirements of 40 CFR Parts 264, 265 or 270,
22 regarding the management of leachate collected from the landfill
23 (see the comment following 40 CFR § 265.310(d)(2) regarding the
24 treatment of leachate);

25 b. 40 CFR §§ 265.90-94 and 265.310(b), which requires
26 any land disposal facility to maintain a ground water monitoring
27 system in full compliance with 40 CFR Part 265, Subpart F dur
28

1
2 the closure and post-closure period for a landfill;

3 c. 40 CFR § 265.145, which requires the establishment
4 of documents demonstrating compliance with the financial assurance
5 requirements for post-closure care of the landfill.
6

7 8. Based upon the foregoing, Respondent is further found
8 to be in violation of 40 CFR 270.10(a) and Section 3005(i) of
9 RCRA, 42 U.S.C. § 6921(a) < for failure to submit a corrective
10 application upon request, and to ensure compliance with the
11 provisions of 40 CFR Part 264, Subparts F and H at the RBT landfill.

12 AGREEMENT
13

14 7. Respondent admits the jurisdictional allegations of
15 this Agreement, and admits the Findings of Fact and Conclusions
16 of Law contained in this Agreement.

17 8. Respondent acknowledges the issuance of the final
18 order attached to this Agreement, including the assessment of
19 civil penalties therein. Respondent further acknowledges that
20 any payment of any penalties pursuant to this Agreement and Final
21 Order does not relieve the Respondent from its legal duty to
22 comply with the requirements of the Final Order, ^{nor would the payment} ~~or the~~
23 of penalties prevent the
24 enforcement of the Compliance Order Activities of this Final Order,
25 nor would the payment of the assessed penalties relieve it of its
26 duty to comply with applicable provisions of RCRA and applicable
27 provisions of State of Washington laws and regulations governing
28

1 the disposal of hazardous (dangerous) wastes.

2 9. ~~11~~. Respondent waives any right to a hearing on, or
3 appeal from this Agreement and Final Order.
4

5 DATED: _____
6 For Respondent Pacific Wood Treating
7 Corporation
8

9 DATED: _____
10 For Complainant Environmental
11 Protection Agency

12 FINAL ORDER

13 1. Based upon the foregoing Findings of Fact and
14 Conclusions of Law, which are incorporated herein by reference,
15 Respondent Pacific Wood Treatment Corporation is hereby found in
16 violation of the delegated State of Washington Dangerous Waste
17 Statute, and accompanying regulations, ~~and Section 3005(i) of RCRA,~~
18 ~~42 U.S.C. § 6925(i) and applicable regulations.~~

19 PENALTY ASSESSMENT

20 2. Respondent is assessed a civil penalty of fifteen
21 thousand dollars (\$15,000.00) for these violations. No interest
22 shall be charged on this amount.
23

24 3. The payment of the assessed penalty is suspended
25 and deferred to ~~October 11, 1987~~ October 30, 1987, at which time they shall become
26 due and payable without further notice or proceedings UNLESS the
27 activities described in paragraphs 5 through ~~8~~ ⁷ are performed
28 in a timely ~~(and adequate)~~ fashion. If the activities described

1 in paragraphs 5 through ⁷ ~~8~~ are performed in a timely ~~(and adequate)~~
2 fashion, the assessed penalty shall be wholly excused automatically
3 without further notice and proceedings.
4

5 4. The assessed penalty shall become immediately due,
6 notwithstanding paragraph 3, if any of the described activities
7 do not occur on the dates described herein.
8

9 COMPLIANCE ORDER ACTIVITIES

10 5. Within thirty (30) days of the date of this Order,
11 Respondent shall submit documentation demonstrating the lawful
12 management and disposal of leachate collected from the landfill
13 known as the Ridgefield Brick and Tile Company (RBT landfill or
14 landfill). This documentation shall demonstrate full compliance
15 with 40 CFR Part 262 or 40 CFR § 261.5(g) through the establishment
16 of procedures and practices for the proper off-site disposal of
17 any leachate produced or collected from the landfill.
18

19 6. Within sixty (60) days from the date of this Order,
20 the Respondent shall demonstrate compliance with the financial
21 assurance requirements of 40 CFR Part 265, Subpart H, verifying
22 compliance with the post closure requirements for financial
23 assurance, or, if such compliance is impossible despite the best
24 efforts of the Respondent, shall submit appropriate financial
25 records and a proposed schedule for the establishment of a
26 trust fund to ensure compliance with the Subpart H regulations.
27

28 7.(a) Within sixty (60) days of the date of this order,
the Respondent shall submit a plan and schedule to EPA for the

proper re-closure of the RBT landfill, in accordance with the applicable regulations of 40 CFR part 265, Subpart G. In particular, the plan shall address the installation of a ground water monitoring system at the landfill which is in compliance with 40 CFR Part 265, Subpart F, and which would provide sufficient hydrogeological information to satisfy the requirements of 40 CFR § 270.14(c). This plan shall include provisions which will ensure that the system shall be monitored for all applicable parameters of 40 CFR §§ 265.92 and 93. ^{on a quarterly basis} The plan shall also ~~address~~ ^{provide for soil sampling plan to determine whether} any releases of hazardous or dangerous waste ^{closure} from the former leachate collection system.

~~(b) Within ninety (90) days of the receipt of comments on the plan and schedule from EPA, Respondent shall modify the plan and schedule accordingly, and install and implement the modified plan at the RBT landfill.~~

~~8. Within six (6) months from the date of this Order, Respondent shall submit a complete application for a part B permit for the RBT landfill. This application shall satisfy all applicable portions of 40 CFR Part 270, including § 270.14. Additionally, the application shall fully address post closure care at the landfill, and shall ensure compliance with all applicable portions of 40 CFR Part 264, as those regulations pertain to the post closure care of landfills, including the ground-water monitoring requirements of 40 CFR Part 264, Subpart F, and the financial assurance requirements of 40 CFR Part 264, Subpart H.~~

~~12 months or 10/30/2010 change to 15 later~~

GENERAL PROVISIONS

8 9. For each requirement described in paragraphs 5 through ~~8~~⁷, the Respondent shall file a signed statement which verifies the extent to which the conditions specified have or have not been met or fulfilled. These signed statements shall be ~~filed~~^{mailed to EPA} within two business days of the due date described in the paragraphs.

9 10. By deferring penalties herein, the burden of proving that payment of those penalties remains deferred and suspended is hereby placed upon the Respondent.

10 11. By written submission of a stipulation by both parties, any date established in this Order may be modified.

11 12. All written submissions pursuant to this Order shall be made to:

Kenneth Feigner, Branch Chief
Waste Management Branch
Environmental Protection Agency
1200 Sixth Avenue
Seattle, Washington 98101 .

12 IT IS SO ORDERED, this _____ day of _____, 1986.

Charles E. Findley, Director
Hazardous Waste Division
EPA Region 10

13 12. This order shall terminate upon the acceptance of a delisting petition by EPA at any time prior to the completion of the order's provisions.